

MINUTES
YORK COUNTY PLANNING COMMISSION
Regular Meeting
York Hall, 301 Main Street
July 13, 2005

MEMBERS
Christopher A. Abel
Nicholas F. Barba
Anne C. H. Conner
John R. Davis
Alexander T. Hamilton
Alfred E. Ptasznik, Jr.
John W. Staton

CALL TO ORDER

The meeting was called to order at 7:00 PM.

ELECTION OF CHAIR AND VICE CHAIR

Mr. Mark Carter, Assistant County Administrator, called to order the election of Chair and Vice Chair for Fiscal Year 2006. He opened the floor to nominations for Chair.

Mr. Alfred E. Ptasznik, Jr. was nominated Chair. There were no other nominations and Mr. Ptasznik was elected Chair by unanimous roll call vote.

Chair Ptasznik opened the floor for nominations for Vice Chair. Mr. Nick Barba was nominated, there were no additional nominations, and Mr. Barba was unanimously elected Vice Chair by roll call vote.

ROLL CALL

The roll was called and all members were present except Ms. Conner and Mr. Davis. Staff members present were J. Mark Carter, Timothy C. Cross, Amy Parker, and Earl Anderson. James E. Barnett, Jr., County Attorney, was absent.

REMARKS

Chair Ptasznik stated that the Code of Virginia requires local governments to have a Planning Commission, the purpose of which is to advise the Board of Supervisors on land use and planning issues affecting the County. The responsibility is exercised through recommendations conveyed by resolutions or other official means and all are matters of public record. He indicated that the Commission is comprised of citizen volunteers, appointed by the Board, representing each voting district and two at-large members.

APPROVAL OF MINUTES

Mr. Hamilton moved adoption of the minutes of the regular meeting of June 8, 2005. They were adopted unanimously by roll call vote.

CITIZEN COMMENTS

There were no citizen comments.

PUBLIC HEARINGS

Application No. ZT-96-05, York County Board of Supervisors: An application to amend Chapter 24.1, Zoning, of the York County Code, by creating a new section 24.1-223.1, Special Requirements Adjacent to Unused Rights-of-Way, to allow adjustments in the dimension and location of front landscape yards and in the setback of freestanding signs on properties abutting a public right-of-way where the front property line of said parcel is located 50 feet or more from the edge of the existing pavement and where such roadway is not planned for widening in either the current Regional Transportation Plan or the current Virginia Department of Transportation Six-Year Plan.

Mr. Mark Carter, Assistant County Administrator, presented the staff summary of the memorandum to the Commission dated June 30, 2005 and recommended approval by the adoption of proposed Resolution No. PC05-29.

Mr. Hamilton asked if the six roads listed in the staff memorandum were the primary focus of the proposed amendments to the Zoning Ordinance dealing with sign and landscape yard locations. **Mr. Carter** said they were.

Mr. Ptasznik asked who would be liable if signs existed on a property that needed to be disturbed for utility placement by the Virginia Department of Transportation. The property owner would be liable, **Mr. Carter** said, but noted that VDOT would not allow sign encroachment if utilities existed within the ten-foot area. He suggested the proposed ordinance be clarified to indicate that the property owner would be required to remove any signs in the way of a County or VDOT utility project. **Mr. Ptasznik** recommended revising the ordinance to state the owner would be taking a risk in such event.

Mr. Barba moved the adoption of proposed Resolution PC05-29(R), to include the revisions suggested by Mr. Carter and Mr. Ptasznik.

Resolution No. PC05-29(R)

On motion of Mr. Barba, which carried 5:0 (Conner and Davis absent), the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF APPLICATION NO. ZT-96-05 WHICH PROPOSES AMENDMENT OF CHAPTER 24.1, ZONING, YORK COUNTY CODE, TO ALLOW CERTAIN CONCESSIONS FOR THE WIDTH OF

FRONT LANDSCAPE YARDS AND SIGN PLACEMENT FOR PROPERTIES
THAT ABUT UNUSUALLY WIDE EXPANSES OF UNUSED HIGHWAY
RIGHT-OF-WAY

WHEREAS, the York County Board of Supervisors has sponsored Application No. ZT-96-05 after determining that the normally applicable front landscape yard and sign placement standards may create hardships for businesses located along primary highways having unusually wide expanses of unused right-of-way between the travel lane and the front property line of such parcels; and

WHEREAS, the Board wishes to consider establishing opportunities for relief from the normally applicable standards in cases where such highways are not programmed or planned for widening; and

WHEREAS, said application has been referred to the York County Planning Commission for review and consideration in accordance with applicable procedures for zoning ordinance text and map amendments; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing and conducted subsequent deliberations and discussions on the proposed amendments.

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 13th day of July, 2005 that it does hereby forward Application No. ZT-96-05 to the Board of Supervisors with a recommendation for approval of an amendment to Chapter 24.1, Zoning, of the York County Code to read as follows:

Add new Section 24.1-223.1, as follows:

24.1-223.1 Special requirements adjacent to unused rights-of-way

In the case of a parcel abutting a primary system highway that is not a limited access roadway or a frontage road associated with a limited access roadway and that is not planned for widening in the current Virginia Department of Transportation Six-Year Plan or in the current Regional Transportation Plan or the York County Comprehensive Plan, if the front property line of said parcel is 50 feet or more from the edge of the existing pavement the 20-foot front landscaped yard required by section 24.1-244 may be reduced to five feet, provided that the Virginia Department of Transportation will allow the landscape planting requirements specified by section 24.1-242 to be met by plantings which shall be installed by the property owner within that 5-foot area and the 15 feet of right of way closest to the front property line, and the 10-foot setback for signs required by section 24.1-702 may be waived and the sign may be located in the area between the normal setback line and the front property line or, in the event the Virginia Department of Transportation authorizes such placement through a land lease or permit arrangement, may be located within 10 feet of the front property line of the parcel and within the VDOT right-of-way. Should such lease/permit be terminated by VDOT, or should the subject 10-foot area be needed for a public utility project, the property owner shall be responsible for relocating the sign to comply with all applicable sign setback standards then in effect.

Application No. UP-671-05, George Nice & Sons, Inc. Request for a Special Use Permit, pursuant to Section 24.1-283(e) of the York County Zoning Ordinance, to authorize a home occupation with up to five (5) non-resident employees on a 92.8-acre parcel located at 143 Skimino Road and further identified as Assessor's Parcel No. 3-1-B. The proposed home occupation would be a home office for a contracting business. The property is zoned RR (Rural Residential) and designated Low Density Residential in the Comprehensive Plan.

Timothy Cross, AICP, summarized the staff report to the Commission dated July 1, 2005 in which the staff recommended approval. **Mr. Cross** stated the applicant had relocated the home contracting business under the terms of his previously-approved Special Use Permit (Resolution No. R99-2[R], approved 1/20/99 and subsequently amended by the Board of Supervisors), which expired in January 2005. However, because the applicant's planned office building in James City County has been delayed pending County approval, he is requesting to temporarily continue the existing home office use for up to two more years. To do so, it is necessary to obtain a new use permit because the home occupation employs non-resident employees.

Mr. Ptasznik inquired if the limited truck carrying capacity might affect Mr. Nice's employees who may drive personal pickup trucks exceeding a carrying capacity of one ton. **Mr. Cross** explained that the Zoning Ordinance sets a maximum one-ton load for any vehicle to be parked, stored on or operated from a property used as a home occupation.

Chair Ptasznik opened the public hearing.

Mr. Brian Mitchell, 109 Shady Bluff Point, Williamsburg, had no objection to the application, but expressed a desire that there be no expansion of heavy equipment storage on the site.

Mr. Russ Gorgone, 108 Shady Bluff Point, President, Skimino Landing Estates HOA, spoke for the residents of Skimino Landing Estates who are unanimous, he said, in favor of approval. Mr. Nice has been a good neighbor, maintains his property, helps out in the community, and the business has no ill effects on the community, according to **Mr. Gorgone**.

Mr. Ray Nice spoke in behalf of his application. He requested extra time because approval of his new facility in James City County is taking longer than expected.

Mr. Ptasznik asked if any of the applicant's employees drives a truck to the site that carries a gross weight over one ton. **Mr. Nice** replied that neither he nor any of the employees drives such a vehicle.

Chair Ptasznik closed the public hearing.

Mr. Barba understood the rationale for approving the use permit and was in favor of approval, although he regretted the applicant's business would be moving out of the County.

Mr. Hamilton concurred with the opinion expressed by Mr. Barba.

Mr. Staton indicated he would support approval; **Mr. Ptasznik** indicated he would, also.

Mr. Hamilton moved to adopt proposed Resolution No. PC05-28.

Resolution No. PC05-28

On motion of Mr. Hamilton, which carried 5:0 (Conner and Davis absent), the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT
TO AUTHORIZE A CONTRACTOR OFFICE WITH UP TO FIVE (5) NON-
RESIDENT EMPLOYEES AS A HOME OCCUPATION AT 143 SKIMINO ROAD

WHEREAS, George Nice & Sons, Inc. has submitted Application No. UP-671-05, which requests a Special Use Permit, pursuant to Section 24.1-283(e) of the York County Zoning Ordinance, to authorize a contractor office with up to five (5) non-resident employees as a home occupation on a 92.8-acre parcel located at 143 Skimino Road (Route 797) and further identified as Assessor's Parcel No. 3-1-B; and

WHEREAS, said application has been forwarded to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission had conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 13th day of July, 2005, that Application No. UP-671-05 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a contractor office with up to five (5) non-resident employees as a home occupation on a 92.8-acre parcel located at 143 Skimino Road (Route 797), further identified as Assessor's Parcel No. 3-1-B (GPIN# 20b-4572-4798), subject to the following conditions:

1. This Special Use Permit shall authorize a contractor office with up to five (5) non-resident employees as a home occupation on a 92.8-acre parcel located at 143 Skimino Road (Route 797), further identified as Assessor's Parcel No. 3-1-B (GPIN# 20b-4572-4798).
2. The contractor office shall be operated in compliance with the standards set forth in Sections 24.1-281, *General Requirements for home occupations*, and 24.1-283, *Home occupations permitted by special use permit*, of the York County Zoning Ordinance, except as modified herein.

3. No more than five (5) non-resident employees shall be permitted in connection with the home occupation.
4. No heavy truck or piece of equipment having a gross rated carrying capacity of more than one (1) ton gross weight shall be parked or stored on or operated from the subject property in connection with the home occupation.
5. This use permit shall expire two (2) years from the date of approval of this use permit.

Application No. UP-673-02, Paradise Tattoo: Request for a Special Use Permit, pursuant to Section 24.1-306 (Category 11, No. 7) of the York County Zoning Ordinance, to authorize the establishment of a 1,247-square foot tattoo parlor within an existing retail center (Palace Plaza Shops) located at 113 Palace Lane (Route 690) and further identified as Assessor's Parcel No. 9-14. The property, located on the east side of Palace Lane approximately 600 feet north of its intersection with Bypass Road (Route 60), is zoned GB General Business and is designated for General Business development in the Comprehensive Plan.

Ms. Amy Parker, Senior Planner, summarized the staff memorandum dated July 6, 2005 in which the staff recommended approval. **Ms. Parker** noted the receipt of a letter of opposition from a resident of Palace Lane, and said no comments were received on this application from either James City County or the City of Williamsburg.

Mr. Abel recalled the Commission was concerned that the previous site proposed by the applicant would have been visible from a school. He asked if the location currently requested for the business was visible from either Providence Classical School or Ascension of our Lord Byzantine Catholic Church. **Ms. Parker** confirmed there would be no visibility of the proposed tattoo parlor from the school or the church.

Mr. Staton questioned staff's recommendation of approval of this application for the tattoo parlor actually closer to a private school than the previous location was to a public school. As he recalled, the Commission had expressed concern about visibility of the parlor from a school and subsequently recommended denial of the application as recommended by staff. **Ms. Parker** said the previous application was for a location with direct visibility of the parlor and its sign from the school grounds; this location would not provide direct visibility.

Chair Ptasznik opened the public hearing.

Mr. Scott Mitchell, 3801 Fox Hollow, Williamsburg, spoke in behalf of his application. He explained that the location selected for the current application appeared to be more suitable than the previous location. He had personally checked its visibility from the nearby church and private school and determined the shopping center was not visible from either, nor was it visible from Bypass Road. He explained some tenants of the shopping center remain open until 10 PM and he

would like to remain open during hours similar to other tattoo parlors, including Sunday afternoons and evenings.

Mr. Barba suggested good visibility would be an important marketing advantage. **Mr. Mitchell** replied that visibility was an advantage but not a necessity for that particular business and there would be word-of-mouth advertising. **Mr. Barba** asked Mr. Mitchell if he had considered a business park for the tattoo parlor, and **Mr. Mitchell** said that was a possibility but a shopping center has the potential to attract customers that a business park does not have even though potential patrons could not see his business until they arrived at the shopping center.

Mr. Hamilton thought the current location was preferable to the applicant's previous proposed site.

Mr. Barba commended Mr. Mitchell for his efforts in seeking and finding a compromise. He withheld his support, however, because he did not approve of the business in a neighborhood shopping center.

Mr. Ptasznik believed the location was an improvement over the previously requested location because it lacks major visibility by children who could be impressed by the idea of having a tattoo and may eventually go to a less-than-professional artist. He believed a business park might also be an option, but could support the application because of the improved location.

Mr. Hamilton moved adoption of proposed Resolution PC05-30(R).

Resolution No. PC95-30(R)

On motion of Mr. Hamilton, which carried 3:2 (Staton and Barba dissenting, Conner and Davis absent), the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF A SPECIAL USE PERMIT
TO AUTHORIZE A TATTOO PARLOR AT 113 PALACE LANE

WHEREAS, Paradise Tattoo has submitted Application No. UP-673-05, which requests a Special Use Permit, pursuant to Section 24.1-306 (Category 12, No. 7) of the York County Zoning Ordinance to authorize a 1,247-square foot tattoo parlor within the existing retail center located at 113 Palace Lane (Route 690) and further identified as Assessor's Parcel No. 9-14; and

WHEREAS, said application has been referred to the York County Planning Commission in accordance with applicable procedure; and

WHEREAS, the Planning Commission has conducted a duly advertised public hearing on this application; and

WHEREAS, the Commission has carefully considered the public comments and staff recommendation with respect to this application;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 13th day of July, 2005, that Application No. UP-673-05 be, and it is hereby, transmitted to the York County Board of Supervisors with a recommendation of approval to authorize a 1,247-square

foot tattoo parlor in the existing retail center located at 113 Palace Lane Trail (Route 630) and further identified as Assessor's Parcel No. 9-14 (GPIN No. D15a-2344-2638); subject to the following conditions:

1. This use permit shall authorize the establishment of a 1,247-square foot tattoo parlor located in the existing retail center at 113 Palace Lane (Route 630) and further identified as Assessor's Parcel No. 9-14.
2. The subject facility shall be established in substantial conformance with the floor plan submitted by the applicant and received by the Planning Division on May 27, 2005.
3. In order to provide opaque screening from view outside of the parlor, front windows shall be treated with tinting or other window shading devices that are compatible with the architecture of the retail center building, subject to the approval of the Zoning Administrator.
4. Signage for the proposed use shall be limited to building façade signage installed in accordance with all applicable requirements of the Zoning Ordinance. Advertising for the proposed use shall not be permitted on any existing or future proposed freestanding signage for the retail center.
5. In accordance with Section 24.1-115(b)(7) of the York County Zoning Ordinance, a certified copy of the resolution authorizing this Special Use Permit shall be recorded at the expense of the applicant in the name of the property owner as grantor in the office of the Clerk of the Circuit Court prior to application for site plan approval or issuance of a Certificate of Occupancy, whichever occurs first.

NEW BUSINESS

There was no new business.

OLD BUSINESS

There was no old business.

STAFF REPORTS

Mr. Carter distributed the "Development Activity Update" dated July 13, 2005.

COMMITTEE REPORTS

Mr. Barba presented an update on the Comprehensive Plan Review Steering Committee; the first draft will be ready July 14 for review by the Steering Committee, he reported, and it is likely to be the subject of a Planning Commission work session August 3, 2004. He complimented the planners for all of their hard work on the Plan.

COMMISSION REPORTS AND REQUESTS

There were no reports or requests.

ADJOURN

The meeting was adjourned at 8:06 p.m.

SUBMITTED: _____/s/_____
Phyllis P. Liscum, Secretary

APPROVED: _____/s/_____
Alfred E. Ptaszniak, Jr., Chair

ATE: August 10, 2005